

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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**GLORIA RODRIGUEZ, as Executrix of the Estate
of Yolanda C. Rodriguez, deceased,**

Plaintiff,

- against -

PETER MUBANDA, et al.,

Defendants.

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ORDER

02-CV-3819 (NG)(RLM))

GERSHON, United States District Judge:

The comprehensive Report and Recommendation of Magistrate Judge Roanne L. Mann, dated September 20, 2005, to which no objections have been filed, is adopted in its entirety. The Clerk of Court is directed to enter a default judgment against defendants Peter Mubanda and Performance Financial, LLC., holding them jointly and severally liable for the first two claims, in the amount of \$40,000 in damages plus prejudgment interest at a rate of nine percent per annum.

Judge Mann determined that the defendant converted a total of \$80,000 by forging two checks and twice withdrawing \$40,000 from one of the Rodriguez's joint accounts at Merrill Lynch. The Complaint attaches copies of both forged checks, which indicate that the first check, dated January 20, 1999, was cashed on January 26, 1999, and the second check, dated March 16, 1999, was cashed on March 18, 1999. The Court has determined that prejudgment interest will be calculated as of the intermediate date of February 20, 1999.

In addition, as recommended by Judge Mann, plaintiff's motion for a default judgment with respect to all other claims is denied, and those claims are hereby dismissed. The Clerk is directed to close this case.

SO ORDERED.

/s/ *Nina Gershon*
NINA GERSHON
United States District Judge

Dated: Brooklyn, New York
September 30, 2005